

Debtor(s).

Location: Online auction sale (proposed Auctioneer: R.L. Spear Co., Inc.)

Last date to file objections: Not later than 14 days from date of service

and office equipment and furnishings used in the Debtor's former retail candy business

Terms and conditions of sale: See attached Statement of Information in Compliance with LBR 6004-1(c)(3).

Proposed sale price: to be determined - public auction sale

Overbid procedure (if any): Public auction sale. See attached Statement of Information and Auction Motion

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Melissa Davis Lowe, Esg.
Shulman Hodges & Bastian LLP
100 Spectrum Center Drive, Suite 600
Irvine, CA 92618
Telephone: (949) 340-3400
Facsimile: (949) 340-3000
mlowe@shblp.com

Date: 07/09/2019

Attachments:

- (1) Notice of Motion (includes Statement of Information and the Auction Motion)**
- (2) Proof of Service**

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Lynda T. Bui - Bar No. 201002 Melissa Davis Lowe - Bar No. 245521 SHULMAN HODGES & BASTIAN LLP 100 Spectrum Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: lbui@shbllp.com; mlowe@shbllp.com <input type="checkbox"/> Debtor(s) appearing without an attorney <input checked="" type="checkbox"/> Attorney for: Steven M. Speier, Chapter 7 Trustee	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION	
In re: CANDY CRATE INC., Debtor(s).	<div>CASE NO.: 6:19-bk-14334-MW CHAPTER: 7</div> <div style="text-align: center;">NOTICE OF OPPORTUNITY TO REQUEST A HEARING ON MOTION [LBR 9013-1(o)]</div> <div>[No hearing unless requested in writing]</div>

TO THE U.S. TRUSTEE AND ALL PARTIES ENTITLED TO NOTICE, PLEASE TAKE NOTICE THAT:

1. Movant(s) Steven M. Speier, Chapter 7 Trustee, filed a motion or application (Motion) entitled Trustee's Motion for an Order (1) Authorizing the Trustee to Conduct an Auction Sale of Personal Property Assets of the Estate Free and Clear of Liens Pursuant to Bankruptcy Code Sections 363(b) and (f), (2) Approving Payment of Compensation and Expenses to the Auctioneer; etc.
2. Movant(s) is requesting that the court grant the Motion without a hearing as provided for in LBR 9013-1(o), unless a party in interest timely files and serves a written opposition to the Motion and requests a hearing.
3. The Motion is based upon the legal and factual grounds set forth in the Motion. (*Check appropriate box below*):
☒ The full Motion is attached to this notice; or
☐ The full Motion was filed with the court as docket entry # _____, and a detailed description of the relief sought is attached to this notice.
4. **DEADLINE FOR FILING AND SERVING OPPOSITION PAPERS AND REQUEST FOR A HEARING:** Pursuant to LBR 9013-1(o), any party who opposes the Motion may request a hearing on the Motion. The deadline to file and serve a written opposition and request for a hearing is 14 days after the date of service of this notice, plus 3 additional days if you were served by mail or pursuant to F.R.Civ.P. 5(b)(2)(D) or (F).

- a. If you timely file and serve a written opposition and request for a hearing, movant will file and serve a notice of hearing at least 14 days in advance of the hearing. [LBR 9013-1(o)(4)]
- b. If you fail to comply with this deadline:
 - (1) Movant will file a declaration to indicate: (1) the Motion was properly served, (2) the response period elapsed, and (3) no party filed and served a written opposition and request for a hearing within 14 days after the date of service of the notice [LBR 9013-1(o)(3)];
 - (2) Movant will lodge an order that the court may use to grant the Motion; and
 - (3) The court may treat your failure as a waiver of your right to oppose the Motion and may grant the Motion without further hearing and notice. [LBR 9013-1(h)]

Respectfully submitted,

Date: 07/09/2019

/s/ Melissa Davis Lowe

Signature of Movant or attorney for Movant

Melissa Davis Lowe

Printed name of Movant or attorney for Movant

Statement of Information in Compliance with LBR 6004-1(c)(3)

<u>LBR 6004-1(c)(3) Requirement</u>	<u>Information</u>
<p><i>LBR 6004-1(c)(3)(B)</i> Name and address of the proposed buyer:</p>	<p>To be determined – public auction sale. A Report of Auctioneer will be filed with the Court following conclusion of the auction which will identify the date of the sale, each item sold, the sale price and the name, address, and telephone number of the purchaser - in the case of lots, a brief description of each lot sold as well as the sale price and purchaser - the gross proceeds of sale, a statement that the gross proceeds have been turned over to the Trustee, and a descriptive list of the items that were not sold but which were returned to the Trustee.</p>
<p><i>LBR 6004-1(c)(3)(C)</i> Description of the property to be sold:</p>	<p>Various inventory assets of the Debtor consisting of candy inventory, candy displays, warehouse equipment and packaging supplies and office equipment and furnishings used in the Debtor's former retail candy business (collectively, "Assets").</p>
<p><i>LBR 6004-1(c)(3)(D)</i> Terms and conditions of the proposed sale, including the price and all contingencies:</p>	<ul style="list-style-type: none"> • Public Auction (live and/or internet sales, until all Assets are sold). The proposed auction will commence approximately seven (7) days from Court approval of the Auction Motion. Estimated auction to commence in early August 2019. The Auctioneer's website is live 24 hours a day, 7 days a week and online auctions are held daily. • 13% Buyer Fee charged to each purchaser of the Assets, and a 12% Seller Fee charged to the Estate. • The sale will be without limit and without reserve, subject only to minimum opening bid amounts established by the Auctioneer, based on Auctioneer's expert judgment. • Auctioneer will offer the Assets to buyers in "as-is, where-is" condition, without representations or warranties. • If necessary, the Auctioneer may require bidders to post an appropriate deposit as a prerequisite to bid. • The Auctioneer will require buyers to sign a terms sheet, which will include terms to protect Auctioneer and the Trustee from buyer payment defaults, damage to persons or property onsite, claims regarding the Assets, etc. • Auctioneer will accept from buyers the following forms of payment: cash, credit card (fees shall be Auctioneer's responsibility), cashiers' checks, guaranteed checks and wire transfer as payment for the property sold. • Auctioneer shall be responsible to collect and remit any applicable sales tax.
<p><i>LBR 6004-1(c)(3)(E)</i> Whether the proposed sale is free and clear of liens, claims or interests, or subject to them, and a description of all such liens, claims or interests:</p>	<p>The sale will be free and clear of liens pursuant to Bankruptcy Code §363(b)(1) and (f). The Trustee believes that there are no liens or encumbrances impacting the Assets. Nevertheless, out of an abundance of caution the Trustee seeks authority to conduct the auction sale free and clear of all liens and encumbrances, with any liens and interests against the Assets that are not released, paid in full, or otherwise resolved through the sale, if any, to attach to the sale proceeds with the same force, effect, validity, and priority as such liens or interests had with respect to the Assets prior to the sale, pending agreement with the lienholder or further Court order.</p>
<p><i>LBR 6004-1(c)(3)(F)</i> Whether the proposed sale is subject to higher and better bids:</p>	<p>The Trustee proposes to liquidate the Assets by auction to the highest bidder.</p>

<u>LBR 6004-1(c)(3) Requirement</u>	<u>Information</u>
<p><i>LBR 6004-1(c)(3)(G)</i> Consideration to be received by the Estate, including estimated commissions, fees and other costs of sale:</p>	<p>The Trustee proposes to employ R.L. Spear Co., Inc. as the auctioneer (“Auctioneer”). The Auctioneer will conduct the auction sale based solely upon the following compensation: (i) 13% Buyer Fee charged to each purchaser of the Assets, and (ii) a 12% Seller Fee charged to the Estate.</p> <p>The Buyer Fee will be collected by the Auctioneer and along with the auction proceeds (without deduction for the Seller Fee) turned over to the Trustee no later than seven (7) calendar days after the conclusion of the auction. No later than twenty-one (21) days after the conclusion of the auction, the Auctioneer will submit to the Trustee a Report of Auctioneer (“Auction Report”) in compliance with the requirements of the United States Trustee’s Supervisory Instruction No. 10.¹ Payment of the Buyer Fee and Seller Fee by the Estate to the Auctioneer is subject to the Auctioneer providing the Trustee with the Auction Report.</p> <p>Within seven (7) days of the Trustee’s receipt of the Auction Report, the Trustee shall file it with the Court along with a declaration stating that the Trustee has compared the Auction Report to the list of items/lots sold, the Auction Report is satisfactory, the gross funds have been turned over to the Trustee, and the Auctioneer has been compensated pursuant to the terms of the Auction Contract and this Auction Motion as approved by the Court.</p> <p>Provided an Order has been entered approving payment of the Auctioneer’s compensation and expenses, the Trustee shall compensate the Auctioneer for the Court approved fees and expenses within seven (7) calendar days of the filing with the Court of the Auction Report and the Trustee’s declaration.</p>
<p><i>LBR 6004-1(c)(3)(H)</i> If authorization is sought to pay commission, the identity of the auctioneer, broker, or sales agent and the amount or percentage of the proposed commission to be paid:</p>	<p>See above.</p>
<p><i>LBR 6004-1(c)(3)(I)</i> A description of the estimated or possible tax consequences to the Estate, if known, and how any tax liability generated by the sale of the property will be paid:</p>	<p>Auctioneer shall be responsible to collect and remit any applicable sales tax. Other than that, the Trustee does not expect there will be any taxes to be paid by the Estate.</p>
<p><i>LBR 6004-1(c)(3)(J)</i> Date which objection must be filed and served:</p>	<p>A written objection to the proposed sale, together with a request for hearing, must be filed and served pursuant to LBR 9013-1(o) not later than 14 days from the date of service of the notice, unless the notice period is shortened by order of the court. In the absence of an objection, an order may be entered authorizing the sale of the Assets without further notice or hearing.</p>

¹ The Auction Report must include at a minimum: the date of the sale, each item sold, the sale price and the name, address, and telephone number of the purchaser - in the case of lots, a brief description of each lot sold as well as the sale price and purchaser thereof, the gross proceeds of sale, a statement that the gross proceeds have been turned over to the Trustee, and a descriptive list of the items that were not sold but which were returned to the Trustee. The Supervisory Instruction No. 10 also provides that any and all auction proceeds are to be turned over to the Trustee within seven days of conclusion of the auction and that the Auction Report is due within twenty-one days after conclusion of the auction.

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6 Proposed Attorneys for Steven M. Speier,
Chapter 7 Trustee

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION**

10 In re

11 **CANDY CRATE INC.,**

12 Debtor.

Case No. 6:19-bk-14334-WJ

Chapter 7

13 **CHAPTER 7 TRUSTEE’S MOTION FOR AN**
14 **ORDER (1) AUTHORIZING THE TRUSTEE**
15 **TO CONDUCT AN AUCTION SALE OF**
16 **PERSONAL PROPERTY ASSETS OF THE**
17 **ESTATE FREE AND CLEAR OF LIENS**
18 **PURSUANT TO BANKRUPTCY CODE**
19 **SECTIONS 363(b) AND (f), (2) APPROVING**
20 **PAYMENT OF COMPENSATION AND**
21 **EXPENSES TO THE AUCTIONEER; AND (3)**
22 **GRANTING RELATED RELIEF INCLUDING**
23 **USE OF SALE PROCEEDS TO PAY FOR**
24 **ACTUAL COSTS INCURRED;**
25 **MEMORANDUM OF POINTS AND**
26 **AUTHORITIES; DECLARATION OF STEVEN**
27 **M. SPEIER IN SUPPORT**

[No Hearing Required Pursuant to Local Bankruptcy
Rule 9013-1(o)]

1 **TO THE HONORABLE WAYNE E. JOHNSON, UNITED STATES BANKRUPTCY**
2 **JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, THE DEBTOR,**
3 **CREDITORS AND PARTIES-IN-INTEREST:**

4 **I. INTRODUCTION**

5 Steven M. Speier (“Trustee”), the Chapter 7 trustee for the bankruptcy estate (“Estate”) of
6 Candy Crate Inc. (“Debtor”), brings this *Motion for an Order (1) Authorizing the Trustee to Conduct*
7 *an Auction Sale of Personal Property Assets of the Estate Free and Clear of Liens Pursuant to*
8 *Bankruptcy Code Sections 363(b) and (f), (2) Approving Payment of Compensation and Expenses*
9 *to the Auctioneer; and (3) Granting Related Relief Including Use of Sale Proceeds to Pay for Actual*
10 *Costs Incurred* (“Auction Motion”).

11 The Trustee has determined that the sale of the Debtor’s Assets¹ through an auction will
12 provide the most benefit for the Estate and its creditors. The Trustee is advised by the proposed
13 Auctioneer that the Assets to be sold at auction have a gross liquidation value of approximately
14 \$15,000.00 to \$20,000.00 and after payment of costs of the sale, the net proceeds for the Estate are
15 anticipated to be approximately \$10,200.00 to \$14,600.00. Based on good business reasons that
16 exist as outlined below, the Trustee respectfully requests that the Court approve the Auction Motion.

17 **II. RELEVANT FACTS**

18 **A. The Bankruptcy Case**

19 The Debtor filed a voluntary petition under Chapter 7 of the United States Bankruptcy Code
20 on May 18, 2019. A true and correct copy of the Debtor’s Schedule A/B filed on November 2, 2018
21 (docket number 1) is attached as **Exhibit “1”** to the Declaration of Steven M. Speier (“Speier
22 Declaration”).

23 The deadline for filing proofs of claim in this case is September 6, 2019. As of the date of
24 the filing of this Auction Motion, the Claims Register for the case reflects a total of four general
25 unsecured claims have been filed in the aggregate amount of \$43,498.03. The Debtor’s Schedules
26
27

28 _____
¹ Capitalized terms are defined below.

1 indicate \$0.00 in secured claims, \$0.00 in priority claims and general unsecured claims of
2 \$289,025.00.

3 **B. The Assets to be Sold at Auction**

4 The Debtor's Schedule A/B listed various inventory located at its business premises of 19631
5 Descartes, Foothill Ranch, California, consisting of (i) finished goods consisting of candy inventory
6 valued at \$68,000.00; (ii) office furniture and furnishings with an unknown value; (iii) office
7 equipment and computers valued at \$20,965.00; and (iv) machinery and equipment valued at
8 \$22,909.00 (collectively, the "Assets"). The Trustee's proposed auctioneer, R.L. Spear Co., Inc.
9 ("Auctioneer") has inspected the Assets and has advised that at an auction sale, the Assets have a
10 total estimated gross liquidation value of approximately \$15,000.00 to \$20,000.00. Through the
11 competitive bidding of a public auction sale, it is anticipated that the Trustee will receive the best
12 and highest value for the Assets and therefore, the ultimate sale price of the Assets will be fair and
13 reasonable.

14 The Trustee believes that there are no liens or encumbrances impacting the Assets.
15 Nevertheless, out of an abundance of caution, the Trustee seeks authority to conduct the auction sale
16 free and clear of all liens and encumbrances, with any liens and interests against the Assets that are
17 not released, paid in full, or otherwise resolved through the sale, if any, to attach to the sale proceeds
18 with the same force, effect, validity, and priority as such liens or interests had with respect to the
19 Assets prior to the sale, pending agreement with the lienholder or further Court order.

20 **C. The Proposed Auction Date, Proposed Auctioneer and Auction Contrat**

21 The Trustee proposes to liquidate the Assets by auction to the highest bidder. The proposed
22 auction will commence approximately seven (7) days from Court approval of the Auction Motion
23 to allow time for the Auctioneer to coordinate and market the auction (auction estimated to
24 commence in early August 2019). The Auctioneer's website is live 24 hours a day, 7 days a week
25 and online auctions are held daily. The Auctioneer estimates the vast majority of the Assets will sell
26 in approximately two hours.

27 Concurrent with the filing of this Auction Motion, the Trustee has filed his *Application for*
28 *an Order Authorizing the Trustee to Employ R.L. Spear Co., Inc. as his auctioneer to coordinate the*

1 auction and authorization to pay Auctioneer's compensation and expenses pursuant to the terms of
2 the Auction Contract, a true and correct copy of which is attached as **Exhibit "2"** to the Speier
3 Declaration.

4 The Auctioneer has a blanket bond in the amount of \$50,000.00 made payable to the United
5 States of America, which is on file with the Bankruptcy Court. Attached as **Exhibit "3"** to the
6 Speier Declaration is copy of the blanket bond. The total amount of assets the Auctioneer is
7 currently holding for auction does not total more than \$50,000.00.

8 The Auctioneer has advised the Trustee that it maintains liability insurance for lost or stolen
9 property which protects any and all property under the Auctioneer's control which is secured,
10 transported and stored at the Auctioneer's auction location until sold.

11 The principal terms of the Auction Contract and proposed auction sale are as follows (the
12 Trustee is referred to as the "Seller" in the following summary):

13	Sale Format	Public Auction (live and/or internet sales, until all Assets are sold)
14	Sale Date and Time	Commence approximately seven (7) days from Court approval of the
15		Auction Motion. Estimated auction to commence in early August 2019.
16		The Auctioneer's website is live 24 hours a day, 7 days a week and online
17		auctions are held daily.
18	Location	The Trustee expects that the auction shall be held at the Debtor's business
19		premises located at 12520 Business Center Drive, Suite D, Victorville,
20		California. In the event the Trustee must vacate the business premises
21		before the auction, the Auctioneer will store the Assets until the time of
22		the auction.
23	Assets	Candy inventory, candy displays, warehouse equipment and packaging
24		supplies and office equipment and furnishings used in the Debtor's
25		former retail candy business.
26	Marketing	Online advertising to extensive buyer base of over 11,000 auction buyers,
27		advertising in local and national media and by targeting those companies
28		most likely to have an interest in purchasing the candy inventory and
		equipment. Advertising to commence immediately on the Auctioneer's
		website and several other websites. The Auctioneer offers state-of-the-
		art technology for online sales.
	Auctioneer's Costs	Auctioneer will be reimbursed its reasonable costs for advertising, labor,
		permits, etc. in conducting the auction. Such costs are estimated to be no
		more than \$3,000.00.

Auctioneer's
Compensation

The Auctioneer will conduct the auction sale based solely upon the following compensation: (i) 13% Buyer Fee charged to each purchaser of the Assets, and (ii) a 12% Seller Fee charged to the Estate.

The Buyer Fee will be collected by the Auctioneer and along with the auction proceeds (without deduction for the Seller Fee) turned over to the Trustee no later than seven (7) calendar days after the conclusion of the auction. No later than twenty-one (21) days after the conclusion of the auction, the Auctioneer will submit to the Trustee a Report of Auctioneer ("Auction Report") in compliance with the requirements of the United States Trustee's Supervisory Instruction No. 10.² Payment of the Buyer Fee and Seller Fee by the Estate to the Auctioneer is subject to the Auctioneer providing the Trustee with the Auction Report.

Within seven (7) days of the Trustee's receipt of the Auction Report, the Trustee shall file it with the Court along with a declaration stating that the Trustee has compared the Auction Report to the list of items/lots sold, the Auction Report is satisfactory, the gross funds have been turned over to the Trustee, and the Auctioneer has been compensated pursuant to the terms of the Auction Contract and this Auction Motion as approved by the Court.

Provided an Order has been entered approving payment of the Auctioneer's compensation and expenses, the Trustee shall compensate the Auctioneer for the Court approved fees and expenses within seven (7) calendar days of the filing with the Court of the Auction Report and the Trustee's declaration.

² The Auction Report must include at a minimum: the date of the sale, each item sold, the sale price and the name, address, and telephone number of the purchaser - in the case of lots, a brief description of each lot sold as well as the sale price and purchaser thereof, the gross proceeds of sale, a statement that the gross proceeds have been turned over to the Trustee, and a descriptive list of the items that were not sold but which were returned to the Trustee. The Supervisory Instruction No. 10 also provides that any and all auction proceeds are to be turned over to the Trustee within seven days of conclusion of the auction and that the Auction Report is due within twenty-one days after conclusion of the auction.

1 2 3 4 5 6 7 8 9	<table><tr><td>Additional terms</td><td><ul style="list-style-type: none">• The sale will be without limit and without reserve, subject only to minimum opening bid amounts established by the Auctioneer, based on Auctioneer's expert judgment.• Auctioneer will offer the Assets to buyers in "as-is, where-is" condition, without representations or warranties.• If necessary, the Auctioneer may require bidders to post an appropriate deposit as a prerequisite to bid.• The Auctioneer will require buyers to sign a terms sheet, which will include terms to protect Auctioneer and Seller from buyer payment defaults, damage to persons or property onsite, claims regarding the Assets, etc.• Auctioneer will accept from buyers the following forms of payment: cash, credit card (fees shall be Auctioneer's responsibility), cashiers' checks, guaranteed checks and wire transfer as payment for the property sold.• Auctioneer shall be responsible to collect and remit any applicable sales tax.</td></tr></table>	Additional terms	<ul style="list-style-type: none">• The sale will be without limit and without reserve, subject only to minimum opening bid amounts established by the Auctioneer, based on Auctioneer's expert judgment.• Auctioneer will offer the Assets to buyers in "as-is, where-is" condition, without representations or warranties.• If necessary, the Auctioneer may require bidders to post an appropriate deposit as a prerequisite to bid.• The Auctioneer will require buyers to sign a terms sheet, which will include terms to protect Auctioneer and Seller from buyer payment defaults, damage to persons or property onsite, claims regarding the Assets, etc.• Auctioneer will accept from buyers the following forms of payment: cash, credit card (fees shall be Auctioneer's responsibility), cashiers' checks, guaranteed checks and wire transfer as payment for the property sold.• Auctioneer shall be responsible to collect and remit any applicable sales tax.
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10
11 **D. Tax Consequences**

12 Any sales taxes from the sale of the Assets will be paid by the purchaser of the Assets at the
13 auction. The Trustee does not expect that the Estate will incur any taxes as a result of the sale of
14 the Assets.

15 **E. Request for Authorization to Use the Auction Proceeds to Pay the Auctioneer's**
16 **Compensation and Expenses and to Reimburse the Trustee for his Actual Costs**

17 Through this Auction Motion, the Trustee requests the Court authorize the use of the
18 proceeds of the auction sale to make Court approved disbursements to the proposed Auctioneer
19 pursuant to the terms of the Auction Contract and this Auction Motion as described above.

20 **III. LEGAL AUTHORITIES**

21 **A. There are Good Business Reasons for the Sale and the Sale is in the Best Interest of the**
22 **Estate.**

23 The duties of a trustee in a Chapter 7 filing are enumerated in 11 U.S.C. §704, which
24 provides in relevant part as follows:

25 (a) The trustee shall—

26 (1) collect and reduce to money the property of the estate for which
27 such trustee serves, and close such estate as expeditiously as is
compatible with the best interests of parties in interest;

28 (2) be accountable for all property received;

11 U.S.C. §704(a). Further, the Trustee, after notice and hearing, may sell property of the estate.
11 U.S.C. § 363(b). Courts ordinarily will approve a proposed sale if there is a good business reason
for the sale and the sale is in the best interests of the estate. *In re Wilde Horse Enterprises, Inc.*,
136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983).

The Trustee has made a business decision and believes that the sale of the Assets by the
proposed auction sale is the best available alternative for maximizing the value of the Assets for the
Estate and creditors. The auction sale is the most efficient and cost effective way to liquidate the
Assets and will allow the Estate to receive the most value as compared to attempting to sell on a
piecemeal basis. The Trustee has been advised by the proposed Auctioneer that the auction may
generate net funds between \$15,000.00 to \$20,000.00, as follows:

Estimated Gross Sale Projection	\$15,000.00	\$20,000.00
Auctioneer Expense Reimbursement (estimate)	(\$3,000.00)	(\$3,000.00)
12% Seller Fee charged to Estate	(\$1,800.00)	(\$2,400.00)
Estimated Net Recovery	\$10,200.00	\$14,600.00

Through the competitive bidding of a public auction, it is anticipated that the Trustee will
receive the best and highest value for the Assets and therefore, the ultimate sale price will be fair
and reasonable. Thus, based on good business reasons, approval of this Auction Motion would
serve the best interests of the Estate and its creditors.

Therefore, the Trustee respectfully submits that, if this Court applies the good business
reason standard suggested by the Second Circuit in *Lionel*, the sale should be approved.

B. The Proposed Sale Should be Allowed Free and Clear of Liens

Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate
“free and clear of any interest in such property of an entity,” if any one of the following five
conditions is met:

- (1) applicable non-bankruptcy law permits a sale of such
property free and clear of such interest;
- (2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest.

11 U.S.C. § 363(f).

Section 363(f) is written in the disjunctive and thus only one of the enumerated conditions needs to be satisfied for Court approval to be appropriate. The Trustee proposes to sell under section 363(f)(4).

A bona fide dispute has been defined by *In re Atwood*, 124 B.R. 402 (Bankr. S.D. Ga. 1991) as a “genuine issue of material fact that bears upon the debtor’s liability, or meritorious contention as to the application of law to undisputed facts.” *Id.* at 407. In *In re Milford Group, Inc.*, 150 B.R. 904 (Bankr. M.D. Pa. 1992), the court stated it need not resolve a bona fide dispute, but must determine whether the issues presented are genuine as to the existence of a bona fide dispute. In doing so, the *Milford* Court found that the debtor had met its burden to establish cause for the Court to allow for the sale of the property, free and clear of liens. Requiring resolution of those issues before the sale may likely take substantial time, effort and expense by the parties.

Here, the Trustee believes that there are no liens or encumbrances impacting the Assets. Nevertheless, out of an abundance of caution the Trustee seeks authority to conduct the auction sale free and clear of all liens and encumbrances, with any liens and interests against the Assets that are not released, paid in full, or otherwise resolved through the sale, if any, to attach to the sale proceeds with the same force, effect, validity, and priority as such liens or interests had with respect to the Assets prior to the sale, pending agreement with the lienholder or further Court order. The need to resolve disputed liens should not hinder, delay or in any way inhibit the Trustee’s efforts to maximize the value of the sale of the Assets for the Estate. Unresolved liens will be the subject of a bona fide dispute as the Trustee believes there are no liens impacting the Assets. Pursuant to Bankruptcy Code §§ 363(b)(1) and 363(f)(4), the Trustee seeks to sell the Assets free and clear of unresolved liens with such disputed liens to attach to the proceeds of the sale in the same validity

1 and priority as prior to the sale pending agreement with the lienholder or further Court order. Thus,
2 approval for the sale free and clear of the lien as a disputed lien pursuant to Bankruptcy Code §
3 363(f)(4) is appropriate.

4 **C. The Court has Authority to Waive the Fourteen-Day Stay of Sale**

5 Federal Rule of Bankruptcy Procedure 6004(h) provides that “[a]n order authorizing the use,
6 sale or lease of property other than cash collateral is stayed until the expiration of 14 days after entry
7 of the order, unless the Court orders otherwise.” Fed. Rule Bankr. P. 6004(h). The Trustee desires
8 to conduct and close the auction sale as soon as practicable after entry of an order approving the
9 Auction Motion. Accordingly, the Trustee requests that the Court, in the discretion provided it
10 under Federal Rule of Bankruptcy Procedure 6004(h), waive the fourteen-day stay requirement.

11 **IV. CONCLUSION**

12 Based upon the foregoing, the Trustee respectfully submits that good cause exists for
13 granting the Auction Motion and requests that the Court enter an order as follows:

14 1. Approving the auction sale of the Assets, to the highest bidder, free and clear of all
15 liens and encumbrances with any liens and interests against the Assets that are not released, paid in
16 full, or otherwise resolved through sale, if any, to attach to the sale proceeds with the same force,
17 effect, validity, and priority as such liens or interests had with respect to the Assets prior to the sale,
18 pending agreement with the lienholder or further Court order.

19 2. Approving and authorizing payment of the Auctioneer’s compensation and expenses
20 pursuant to the terms of the Auction Contract and this Auction Motion.

21 3. Authorizing the Trustee to use the proceeds of the auction sale to make Court
22 approved disbursements to the proposed Auctioneer pursuant to the terms of the Auction Contract
23 and this Auction Motion.

24 4. Authorizing payment to the Auctioneer without further order of this Court upon
25 completion of the requirements of the United States Trustee’s Supervisory Instructions No. 10.

26 5. Directing that the fourteen day stay of the order approving the Auction Motion as
27 provided by Federal Rules of Bankruptcy Procedure 6004(h), or any other applicable rules, shall not
28 apply and that absent judicial imposition of a stay of the Court order approving the Auction Motion

1 pending appeal, the Trustee may immediately consummate the actions that are approved by such
2 Court order.

3 6. For such other and further relief as the Court deems just and proper under the
4 circumstances of this case.

5
6 Dated: July 9, 2019

Respectfully submitted,

7 **SHULMAN HODGES & BASTIAN LLP**

8 */s/ Melissa Davis Lowe*

9 _____
10 Lynda T. Bui
11 Melissa Davis Lowe
12 Proposed Attorneys for Steven M. Speier, Chapter 7
13 Trustee for the bankruptcy estate of Candy Crate Inc.
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DECLARATION OF STEVEN M. SPEIER

I, Steven M. Speier, declare:

1. I am the Chapter 7 trustee for the bankruptcy estate of *In re Candy Crate Inc.* (“Debtor”), Case No. 6:19-bk-14334-WJ. I have personal knowledge of the matters set forth in this Declaration and if called upon to testify, I could and would testify competently to the matters.

2. I am familiar with the Debtor’s bankruptcy proceeding and make this Declaration in support of my *Motion for an Order (1) Authorizing the Trustee to Conduct an Auction Sale of Personal Property Assets of the Estate Free and Clear of Liens Pursuant to Bankruptcy Code Sections 363(b) and (f), (2) Approving Payment of Compensation and Expenses to the Auctioneer; and (3) Granting Related Relief Including Use of Sale Proceeds to Pay for Actual Costs Incurred* (“Auction Motion”). Unless otherwise noted, capitalized terms herein have the meaning as set forth in the Auction Motion.

3. The Debtor filed a voluntary petition under Chapter 7 of the United States Bankruptcy Code on May 18, 2019. A true and correct copy of the Debtor’s Schedule A/B filed on May 18, 2019 (docket number 1) is attached here as **Exhibit “1”** and incorporated herein by this reference.

4. The Debtor’s Schedule A/B listed various inventory and assets located at its business premises of 12520 Business Center Drive, Suites D and E, Victorville, California, consisting of (i) finished goods consisting of candy inventory valued at \$68,000.00; (ii) office furniture and furnishings with an unknown value; (iii) office equipment and computers valued at \$20,965.00; and (iv) machinery and equipment valued at \$22,909.00 (collectively, the “Assets”).

5. My proposed auctioneer, R.L. Spear Co., Inc. (“Auctioneer”) has inspected the Assets and has advised that at an auction sale, the Assets have a total estimated gross liquidation value of approximately \$15,000.00 to \$20,000.00. Through the competitive bidding of a public auction sale, I believe that the Estate will receive the best and highest value for the Assets.

6. I believe that there are no liens or encumbrances impacting the Assets. Nevertheless, out of an abundance of caution, I seek authority to conduct the auction sale free and clear of all liens and encumbrances, with any liens and interests against the Assets that are not released, paid in full,

1 or otherwise resolved through the sale, if any, to attach to the sale proceeds with the same force,
2 effect, validity, and priority as such liens or interests had with respect to the Assets prior to the sale,
3 pending agreement with the lienholder or further Court order.

4 7. I propose to liquidate the Assets by auction to the highest bidder.

5 8. I request authorization to pay the Auctioneer's compensation and expenses pursuant
6 to the terms of the Auction Contract, a true and correct copy of which is attached here as **Exhibit**
7 **"2"** and incorporated herein by this reference.

8 9. The proposed auction will be scheduled to commence approximately seven days after
9 the Court has approved the Auction Motion.

10 10. I am informed that the Auctioneer has a blanket bond in the amount of \$50,000.00
11 made payable to the United States of America, which is on file with the Bankruptcy Court. Attached
12 here as **Exhibit "3"** is copy of the blanket bond. I am further informed that the collective value of
13 all of the Auctioneer's current assets held for auction is less than \$50,000.00.

14 11. The Buyer Fee will be collected by the Auctioneer and along with the auction
15 proceeds (without deduction for the Seller Fee) turned over to me no later than seven (7) calendar
16 days after the conclusion of the auction. No later than twenty-one (21) days after the conclusion of
17 the auction, the Auctioneer will submit to me a Report of Auctioneer ("Auction Report") in
18 compliance with the requirements of the United States Trustee's Supervisory Instruction No. 10.³
19 Payment of the Buyer Fee and Seller Fee by the Estate to the Auctioneer is subject to the Auctioneer
20 providing me the Auction Report.

21 12. Within seven (7) days of my receipt of the Auction Report, I will file it with the Court
22 along with a declaration stating that I have compared the Auction Report to the list of items/lots
23 sold, the Auction Report is satisfactory, the gross funds have been turned over to me, and the
24 Auctioneer has been compensated pursuant to the terms of the Auction Contract and this Motion as
25 approved by the Court.

26 _____
27 ³ The Auction Report will include at a minimum: the date of the sale, each item sold, the sale price and the name,
28 address, and telephone number of the purchaser - in the case of lots, a brief description of each lot sold as well as the
sale price and purchaser thereof, the gross proceeds of sale, a statement that the gross proceeds have been turned over
to me, and a descriptive list of the items that were not sold but which were returned to me.

1 13. Provided an Order has been entered approving payment of the Auctioneer's
2 compensation and expenses, I will compensate the Auctioneer for the Court approved fees and
3 expenses within seven (7) calendar days of the filing with the Court of the Auction Report and the
4 my declaration.

5 14. I request the Court authorize the use of the proceeds of the auction sale to make Court
6 approved disbursements to the proposed Auctioneer pursuant to the terms of the Auction Contract
7 and my Auction Motion.

8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct.

10 Executed on July 8, 2019, at Newport Beach, California.

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12 
13 _____
14 Steven M. Speier
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Exhibit “1”
Debtor’s Schedule A/B

Fill in this information to identify the case:	
Debtor name	<u>Candy Crate Inc.</u>
United States Bankruptcy Court for the:	<u>CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION</u>
Case number (if known)	<u></u>

☐ Check if this is an amended filing

Official Form 206A/B

Schedule A/B: Assets - Real and Personal Property

12/15

Disclose all property, real and personal, which the debtor owns or in which the debtor has any other legal, equitable, or future interest. Include all property in which the debtor holds rights and powers exercisable for the debtor's own benefit. Also include assets and properties which have no book value, such as fully depreciated assets or assets that were not capitalized. In Schedule A/B, list any executory contracts or unexpired leases. Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. At the top of any pages added, write the debtor's name and case number (if known). Also identify the form and line number to which the additional information applies. If an additional sheet is attached, include the amounts from the attachment in the total for the pertinent part.

For Part 1 through Part 11, list each asset under the appropriate category or attach separate supporting schedules, such as a fixed asset schedule or depreciation schedule, that gives the details for each asset in a particular category. List each asset only once. In valuing the debtor's interest, do not deduct the value of secured claims. See the instructions to understand the terms used in this form.

Part 1: Cash and cash equivalents

1. Does the debtor have any cash or cash equivalents?

- ☐ No. Go to Part 2.
☒ Yes Fill in the information below.

All cash or cash equivalents owned or controlled by the debtor

Current value of debtor's interest

3	Checking, savings, money market, or financial brokerage accounts (Identify all)	Name of institution (bank or brokerage firm)	Type of account	Last 4 digits of account number	
3.1.	Bank of America	Checking	3180	\$17,000.00	
3.2.	Bank of the West	Checking	5743	\$662.44	

4. Other cash equivalents (Identify all)

5. Total of Part 1.

Add lines 2 through 4 (including amounts on any additional sheets). Copy the total to line 80.

\$17,662.44

Part 2: Deposits and Prepayments

6. Does the debtor have any deposits or prepayments?

- ☐ No. Go to Part 3.
☒ Yes Fill in the information below.

7. Deposits, including security deposits and utility deposits
 Description, including name of holder of deposit

7.1. Deposit on Commercial Lease with VBC LLC for warehouse space for business \$24,000.00

8. Prepayments, including prepayments on executory contracts, leases, insurance, taxes, and rent
 Description, including name of holder of prepayment

Debtor Candy Crate Inc. Case number (if known) _____
Name

9. Total of Part 2. \$24,000.00
Add lines 7 through 8. Copy the total to line 81.

Part 3: Accounts receivable

10. Does the debtor have any accounts receivable?

- ☒ No. Go to Part 4.
☐ Yes Fill in the information below.

Part 4: Investments

13. Does the debtor own any investments?

- ☒ No. Go to Part 5.
☐ Yes Fill in the information below.

Part 5: Inventory, excluding agriculture assets

18. Does the debtor own any inventory (excluding agriculture assets)?

- ☐ No. Go to Part 6.
☒ Yes Fill in the information below.

	General description	Date of the last physical inventory	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
19.	Raw materials				
20.	Work in progress				
21.	Finished goods, including goods held for resale Candy inventory for internet sale/distribution. Approx 300 cases	4/30/2019	\$68,000.00	estimated retail	\$68,000.00

22. Other inventory or supplies

23. Total of Part 5. \$68,000.00
Add lines 19 through 22. Copy the total to line 84.

24. Is any of the property listed in Part 5 perishable?

- ☐ No
☒ Yes

25. Has any of the property listed in Part 5 been purchased within 20 days before the bankruptcy was filed?

- ☒ No
☐ Yes. Book value _____ Valuation method _____ Current Value _____

26. Has any of the property listed in Part 5 been appraised by a professional within the last year?

- ☒ No
☐ Yes

Part 6: Farming and fishing-related assets (other than titled motor vehicles and land)

27. Does the debtor own or lease any farming and fishing-related assets (other than titled motor vehicles and land)?

- ☒ No. Go to Part 7.
☐ Yes Fill in the information below.

Debtor Candy Crate Inc. Case number (if known) _____
Name

Part 7: Office furniture, fixtures, and equipment; and collectibles

38. Does the debtor own or lease any office furniture, fixtures, equipment, or collectibles?

- ☐ No. Go to Part 8.
☒ Yes Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
39. Office furniture Office furniture, including: Cabinets (26 various), carts (8 various), chairs (35 various), wood cubby (1), desks (12 various), display/decoration (3 various), tables (21 various)	unknown		unknown

40. Office fixtures

41. Office equipment, including all computer equipment and communication systems equipment and software Office Equipment and Computers, including: Computers (8), printers (6), packing equipments (dehydrator, fan, gravity roller, peanut gondolas, paper shooter, popcorn tree, sealers), shredders, postal scales (3)	\$20,965.00	estimated FMV	\$20,965.00
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42. Collectibles Examples: Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; china and crystal; stamp, coin, or baseball card collections; other collections, memorabilia, or collectibles

43. Total of Part 7.
Add lines 39 through 42. Copy the total to line 86.

\$20,965.00

44. Is a depreciation schedule available for any of the property listed in Part 7?
☒ No
☐ Yes

45. Has any of the property listed in Part 7 been appraised by a professional within the last year?
☒ No
☐ Yes

Part 8: Machinery, equipment, and vehicles

46. Does the debtor own or lease any machinery, equipment, or vehicles?

- ☐ No. Go to Part 9.
☒ Yes Fill in the information below.

General description Include year, make, model, and identification numbers (i.e., VIN, HIN, or N-number)	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
47. Automobiles, vans, trucks, motorcycles, trailers, and titled farm vehicles			
48. Watercraft, trailers, motors, and related accessories Examples: Boats, trailers, motors, floating homes, personal watercraft, and fishing vessels			

Debtor Candy Crate Inc. Case number (if known) _____
Name

49. Aircraft and accessories

50. Other machinery, fixtures, and equipment (excluding farm machinery and equipment)
Machinery and Equipment, including
Cashwrap, Cash register, forklift, heaters
(various), ladders (3) \$22,909.00 Estimated FMV \$22,909.00

51. Total of Part 8.

Add lines 47 through 50. Copy the total to line 87.

\$22,909.00

52. Is a depreciation schedule available for any of the property listed in Part 8?

☒ No

☐ Yes

53. Has any of the property listed in Part 8 been appraised by a professional within the last year?

☒ No

☐ Yes

Part 9: Real property

54. Does the debtor own or lease any real property?

☒ No. Go to Part 10.

☐ Yes Fill in the information below.

Part 10: Intangibles and intellectual property

59. Does the debtor have any interests in intangibles or intellectual property?

☐ No. Go to Part 11.

☒ Yes Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
60. Patents, copyrights, trademarks, and trade secrets Trademark owned by business and filed approx. 2002	unknown		unknown
61. Internet domain names and websites Domain name www.candycrate.com	unknown		unknown
62. Licenses, franchises, and royalties			
63. Customer lists, mailing lists, or other compilations Customer list, includes one-time and repeat customer names and addresses	unknown		unknown
64. Other intangibles, or intellectual property			
65. Goodwill			

Debtor Candy Crate Inc. Case number (if known) _____
Name _____

Goodwill for Candy Crate, which has been in the business of retro candy sales as of 2001. Prior listing in attempted sale of business in February 2019 with Flippa, estimated listing price \$550,000

unknown unknown

66. Total of Part 10. \$0.00
Add lines 60 through 65. Copy the total to line 89.

67. Do your lists or records include personally identifiable information of customers (as defined in 11 U.S.C. §§ 101(41A) and 107)?
☐ No
☒ Yes

68. Is there an amortization or other similar schedule available for any of the property listed in Part 10?
☒ No
☐ Yes

69. Has any of the property listed in Part 10 been appraised by a professional within the last year?
☒ No
☐ Yes

Part 1: All other assets

70. Does the debtor own any other assets that have not yet been reported on this form?
Include all interests in executory contracts and unexpired leases not previously reported on this form.

- ☐ No. Go to Part 12.
☒ Yes Fill in the information below.

Current value of
debtor's interest

71. Notes receivable
Description (include name of obligor)
72. Tax refunds and unused net operating losses (NOLs)
Description (for example, federal, state, local)
73. Interests in insurance policies or annuities
74. Causes of action against third parties (whether or not a lawsuit has been filed)
75. Other contingent and unliquidated claims or causes of action of every nature, including counterclaims of the debtor and rights to set off claims
76. Trusts, equitable or future interests in property
77. Other property of any kind not already listed *Examples:* Season tickets, country club membership
Misc business assets, including misc. kitchen supplies, packing supplies (boxes, bags, bows, ribbons), pallets (12 plastic), pallet racks (30), shelving (various 133), refrigerator, television

unknown

Debtor Candy Crate Inc.
Name

Case number (if known) _____

Standard Industrial/Commercial Multi-Tenant Lease
with VBC LLC. 60 month term with 60 month
(auto)renewal. Two buildings totaling 21,253 sq ft. @
\$12,020/month rent. Lease signed 2/20/2014, but
physical possession of lease space as of June 2015

unknown

78. Total of Part 11.

Add lines 71 through 77. Copy the total to line 90.

\$0.00

79. Has any of the property listed in Part 11 been appraised by a professional within the last year?

☒ No

☐ Yes

Debtor Candy Crate Inc. Case number (if known) _____
Name

Part 12: Summary

In Part 12 copy all of the totals from the earlier parts of the form

Type of property	Current value of personal property	Current value of real property
80. Cash, cash equivalents, and financial assets. <i>Copy line 5, Part 1</i>	\$17,662.44	
81. Deposits and prepayments. <i>Copy line 9, Part 2.</i>	\$24,000.00	
82. Accounts receivable. <i>Copy line 12, Part 3.</i>	\$0.00	
83. Investments. <i>Copy line 17, Part 4.</i>	\$0.00	
84. Inventory. <i>Copy line 23, Part 5.</i>	\$68,000.00	
85. Farming and fishing-related assets. <i>Copy line 33, Part 6.</i>	\$0.00	
86. Office furniture, fixtures, and equipment; and collectibles. <i>Copy line 43, Part 7.</i>	\$20,965.00	
87. Machinery, equipment, and vehicles. <i>Copy line 51, Part 8.</i>	\$22,909.00	
88. Real property. <i>Copy line 56, Part 9.</i>		\$0.00
89. Intangibles and intellectual property. <i>Copy line 66, Part 10.</i>	\$0.00	
90. All other assets. <i>Copy line 78, Part 11.</i>	+ \$0.00	
91. Total. Add lines 80 through 90 for each column	\$153,536.44	+ 91b. \$0.00
92. Total of all property on Schedule A/B. Add lines 91a+91b=92		\$153,536.44

Exhibit “2” Auction Contract

R.L. Spear Co., Inc.
5776 D Lindero Canyon Road, #409
Westlake Village, CA 91362
818/735-0822 fax 805/845-3808 www.rlspear.com

June 19, 2019

Steven M. Speier
Post Office Box 7637
Newport Beach, CA 9658

via e-mail: sspeier@glassratner.com

Dear Mr. Speier,

Thank you for allowing us to inspect the former premises of Candy Crate located at 12520 Business Center Dr. Building D; Victorville, CA 92395. After our inspection of the assets, I believe that a public on-line auction will maximize return to the estate by liquidating the assets in a timely and efficient manner.

ASSETS

The assets consist mainly of candy, candy displays with some warehouse equipment and packaging supplies as well as office equipment and furniture. Two Raymond reach trucks are found in the warehouse, we are told one has a bad battery. We estimate that the assets will bring approximately \$15-20,000 at a properly advertised and conducted auction sale.

SCOPE

Let me briefly discuss our auction process, so that you are aware of considerations concerning time and costs.

If necessary due to limited access time, we will, upon approval, identify, count and photograph all items within the premises we feel will bring enough value to justify the cost of removal and storage elsewhere. We will lot items as if the auction were to be held in the warehouse, and then remove all items from the warehouse to be put into storage while awaiting court approval to sell.

After court approval is obtained, we will advertise and market the inventory for sale at on-line auction. The inventory will be made available for inspection immediately before the announced closing date of the sale at our Sylmar, CA warehouse or other suitable facility.

Upon employment, R.L. Spear, Co., Inc. will immediately post on its website and several other websites announcement of an upcoming sale of Candy Crate inventory, equipment and supplies.

Advertising is the most critical component of a successful auction. We will use a two-pronged approach by contacting our extensive buyer base of over 11,000 auction buyers, by advertising in local and national media to those who most likely would be interested in this type of material.

The auction will be scheduled at a time and date that best allows proper notice and advertising coverage, while minimizing storage and leasing costs. We will work with you in determining a best possible sale date as soon as possible. We intend to store the assets within storage containers which would be delivered to the auction facility upon determination of a closing date.

All lots are sold on-line, numerically, to best maximize those items of most value and importance. Our pace usually averages about 100 lots per hour. This sale should take approximately two hours.

Upon completion of the sale, our computer will print invoices for every registered buyer against which we will release the merchandise. Nothing is taken before the end of the sale or before the bill is paid in full. A full accounting of all auction proceeds is provided to you. To protect both us and our client all bills are to be paid either in cash, cashier's check, Mastercard or Visa, business check with a bank letter of guaranteed payment, or business check with the client's approval. The checkout process begins after the conclusion of the sale. All merchandise must be removed by the buyer within a specific time period after the sale. In this case, we will require removal within 2 days after the conclusion of the sale.

COMPENSATION

R.L. Spear Co. will receive as compensation 12% of gross receipts. Commission will be deducted from the proceeds of the sale if deemed acceptable by the Court.

We will charge a 13% Buyer's Premium to all buyers at the auction. This is a standard charge that has become customary at auction sales, and auction buyers will be aware that a premium will be paid and retained by R.L. Spear Co.

EXPENSES

Expenses for this sale, including all advertising, labor, permits, etc., shall be reimbursed to R.L. Spear Co., Inc. from auction proceeds. No outlay of cash will be required from you for purposes of advertising and/or conducting the auction sale. At this time, we estimate expenses at approximately \$3000.00 if sale is conducted at urrent premises.

We have found the on-line auction method to be superior for selling inventories and equipment from a return standpoint as well as from a time management perspective. We look forward to another sale in which all parties are well satisfied.

If you have any questions regarding this proposal, please feel free to contact me via cell or email.

Thank you for this opportunity to be of service.

Sincerely,

David Spear

David Spear
R.L. Spear Co., Inc.

A G 1220:

Spear M. Spear

Exhibit “3” Blanket Bond

BOND NO. 601074008

\$ 50,000.00

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS, THAT, R. L. Spear Co., Inc.

hereinafter called the Principal (Auctioneer), and
THE OHIO CASUALTY INSURANCE COMPANY

hereinafter called Surety, are held and firmly bound unto the United States of America and/or the
United States Trustee hereinafter called the Obligee in the aggregate sum of
Fifty Thousand Dollars
(\$ 50,000.00) for the payment whereof to the Obligee, the Principal and Surety hereby
bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal and Obligee will from time to time conduct auctions on behalf of
the United States Trustee and/or the United States Bankruptcy Court, and as a condition to perform
such auctions the United States Trustee requires that a surety bond be posted to secure the faithful
performance of such auctions.

NOW, THEREFORE, the condition of this obligation is such that if the above bound
Principal shall faithfully perform the duties of an auctioneer and account for all monies received and
in all things comply with the requirements of the United States Trustee and/or the United States
Bankruptcy Court, then this obligation shall be null and void.

PROVIDED, HOWEVER, that the Surety or Principal may cancel this bond by giving thirty
(30) days prior notice in writing to the Obligee such notice to be given by certified mail. Such
cancellation shall not affect any liability incurred under this bond prior to the effective date of such
cancellation.

LIABILITY UNDER THIS BOND SHALL COMMENCE ON THE 26th DAY OF
March, 2014.

SIGNED, SEALED AND DATED THIS 26th DAY OF March,
2014.

ATTEST:

✓

R. L. Spear Co., Inc.

Principal (Auctioneer)

By: ✓

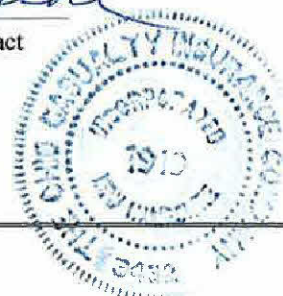
David Spear, President

THE OHIO CASUALTY INSURANCE COMPANY

Surety

By: ✓

Nadine R. Weilersbacher, Attorney-in-Fact



Principal: R. L. Spear Co., Inc.

Agency Name: H. R. Munro & Company

THE OHIO CASUALTY INSURANCE COMPANY

Obligee: US Trustee - Central District of California

Agent Code: 375602

Bond Number: 601074008

Know All Men by These Presents: That THE OHIO CASUALTY INSURANCE COMPANY, a New Hampshire Corporation, pursuant to the authority granted by Article IV, Section 12 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company, do hereby nominate, constitute and appoint: Tod E. Aronson, Charles R. Croyle, Gregory Magnus, Georganne Yandura, Nadine R. Weilersbacher, Marcella M. Nestor, Jayne B. Maloney of Pittsburgh, Pennsylvania its true and lawful agent(s) and attorney(ies)-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed **any and all BONDS, UNDERTAKINGS, and RECOGNIZANCES**, excluding, however, any bond(s) or undertaking(s) guaranteeing the payment of notes and interest thereon.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of said Company at their administrative offices in Keene, NH, in their own proper persons. The authority granted hereunder supersedes any previous authority heretofore granted the above named attorney(ies)-in-fact.

In WITNESS WHEREOF, the undersigned officer of the said The Ohio Casualty Insurance Company has hereunto subscribed his name and affixed the Corporate Seal of said Company this 18th day of November, 2013.



David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA
COUNTY OF MONTGOMERY

On this 18th day of November, 2013 before the subscriber, a Notary Public of the State of Pennsylvania, in and for the County of Montgomery, duly commissioned and qualified, came David M. Carey, Assistant Secretary of The Ohio Casualty Insurance Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn deposes and says that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Plymouth Meeting, State of Pennsylvania, the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2017
Member, Pennsylvania Association of Notaries

Notary Public in and for County of Montgomery, State of Pennsylvania
My Commission

expires March 28, 2017

This power of attorney is granted under and by authority of Article IV, Section 12 of the By-Laws of The Ohio Casualty Insurance Company, extracts from which read:

ARTICLE IV - Officers: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bond, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary.

Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

This certificate and the above power of attorney may be signed by facsimile or mechanically reproduced signatures under and by authority of the following vote of the board of directors of The Ohio Casualty Insurance Company effective on the 15th day of February, 2011:

VOTED that the facsimile or mechanically reproduced signature of any assistant secretary of the company, wherever appearing upon a certified copy of any power of attorney issued by the company in connection with surety bonds, shall be valid and binding upon the company with the same force and effect as though manually affixed.

CERTIFICATE

I, the undersigned Assistant Secretary of The Ohio Casualty Insurance Company, do hereby certify that the foregoing power of attorney, the referenced By-Laws of the Company and the above resolution of their Board of Directors are true and correct copies and are in full force and effect on this date.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Company this 26th day of March, 2014.



Gregory W. Davenport, Assistant Secretary

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **100 Spectrum Center Drive, Suite 600, Irvine, California 92618**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **July 10, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Attorney for Debtor:** Lissette C Blandino HesperiaLawyer@gmail.com, G11534@notify.cincompass.com; lisettebg@hotmail.com
- **Attorney for VBC, LLC:** Vic Rodriguez vrlaw22@yahoo.com
- **Chapter 7 Trustee:** Steven M Speier (TR) lmorvant@glassratner.com, sms@trustesolutions.net, sspeier@glassratner.com
- **Interested Party:** United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On (*date*) **July 10, 2019**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

July 10, 2019
Date

Erlanna Lohayza
Printed Name

/s/ Erlanna Lohayza
Signature

U.S. MAIL SERVICE LIST

DEBTOR

CANDY CRATE INC.
ATTN: JULIE MORRIS,
PRES./CEO
19427 ROYAL OAKS RD
APPLE VALLEY, CA 92308-3353

NEF - ATTORNEY FOR DEBTOR

LISSETTE C BLANDINO
LISSETTE BLANDINO, ATTORNEY-
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NEF - INTERESTED PARTY

UNITED STATES TRUSTEE (RS)
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NEF - CHAPTER 7 TRUSTEE

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